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Response Under 37 C.F.R. § 1.116  
Expedited Procedure  
Examining Group 2859

7/20/05  
AF/\$

PATENT  
ATTORNEY DOCKET NO: 056427-5004-02

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Frank BEERWORTH, et al.

Application No.: 10/617,708

Filed: July 14, 2003

For: PROTECTIVE CAP FOR INFRARED  
RADIATION THERMOMETER  
(As Previously Amended)

Confirmation No.: 4185

Group Art Unit: 2859

Examiner: G. Verbitsky

**Mail Stop AF**

Commissioner for Patents  
U.S. Patent and Trademark Office  
**Mail Stop AF**  
Alexandria, VA 22314

Sir:

**AMENDMENT TRANSMITTAL FORM**

1. Transmitted herewith is an Amendment Under 37 C.F.R. § 1.116 responding to the Advisory Action dated July 21, 2005 (Final Office Action dated March 23, 2005).
2. Additional papers enclosed:
  - ☐ Drawings: ☐ Formal ☐ Informal (Correction)
  - ☐ Information Disclosure Statement
  - ☐ Form PTO-1449, \_\_\_\_\_ references included
  - ☐ Citations
  - ☐ Declaration of Biological Deposit
  - ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

08/15/2005 SDENB0B1 00000092 500310 10617708

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3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

- ☐ Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicants have inadvertently overlooked the need for a petition and fee for extension of time.
- ☒ Applicants petition for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 120.00	\$ 60.00
<input checked="" type="checkbox"/> two months	\$ 450.00	\$ 225.00
<input type="checkbox"/> three months	\$ 1,020.00	\$ 510.00
<input type="checkbox"/> four months	\$ 1,590.00	\$ 795.00

If an additional extension of time is required, please consider this a Petition therefor.

- ☒ An extension for one month has already been secured and the fee paid therefor of \$120.00 is deducted from the total fee due for the total months of extension now requested.

Extension of time fee due with this request: **\$ 330.00.**

4. Constructive Petition

- ☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	17	minus	20	0	x \$50 each=	+ \$
Independent Claims (37 C.F.R. §1.16(b))	3	minus	3	0	x \$200 each=	+ \$
[ ] First presentation of Multiple dependent claim(s)					\$360.00	+ \$
SUB-TOTAL =						\$
Reduction by ½ for filing by a small entity						- \$
TOTAL FEE =						\$0.00

6. Fee Payment

- ☐ No fee is to be paid at this time.
- ☒ The Commissioner is hereby authorized to charge **\$ 330.00** for the balance of the two-month extension of time fee due to Deposit Account No. 50-0310.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: August 12, 2005

By: 

James L. Reed

Reg. No. 43,877

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RADIATION THERMOMETER	)	
(As Previously Amended)	)	

U.S. Patent and Trademark Office  
Customer Window, **Mail Stop AF**  
Randolph Building  
Alexandria, VA 22314

Sir:

**AMENDMENT UNDER 37 C.F.R. § 1.116**  
**(Response to Advisory Action Mailed July 21, 2005)**

In response to the Final Office Action dated March 23, 2005, the period for response to which have been extended through August 23, 2005 by a Petition for Extension of Time and fee payment submitted concurrently herewith, entry of the following amendments is respectfully requested to place the application in clear condition for allowance or, alternatively, in better form for appeal.